

§ 260.42

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sheet accompanying the permit will specify the reasons for the Agency's determination. The question of whether the Regional Administrator's decision was proper will remain open for consideration during the public comment period discussed under §124.11 of this chapter and in any subsequent hearing.

[50 FR 663, Jan. 4, 1985, as amended at 71 FR 40258, July 14, 2006]

§ 260.42 Notification requirement for hazardous secondary materials.

(a) Hazardous secondary material generators, tolling contractors, toll manufacturers, reclaimers, and intermediate facilities managing hazardous secondary materials which are excluded from regulation under §261.2(a)(2)(ii), §261.4(a)(23), (24), or (25) must send a notification prior to operating under the exclusion(s) and by March 1 of each even numbered year thereafter to the Regional Administrator using EPA Form 8700–12 that includes the following information:

- (1) The name, address, and EPA ID number (if applicable) of the facility;
- (2) The name and telephone number of a contact person;
- (3) The NAICS code of the facility;
- (4) The exclusion under which the hazardous secondary materials will be managed (e.g., §261.2(a)(2)(ii), §261.4(a)(23), (24), and/or (25));
- (5) For reclaimers and intermediate facilities managing hazardous secondary materials in accordance with §261.4(a)(24) or (25), whether the reclaimer or intermediate facility has financial assurance (not applicable for persons managing hazardous secondary materials generated and reclaimed under the control of the generator);
- (6) When the facility expects to begin managing the hazardous secondary materials in accordance with the exclusion;
- (7) A list of hazardous secondary materials that will be managed according to the exclusion (reported as the EPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);
- (8) For each hazardous secondary material, whether the hazardous secondary material, or any portion there-

of, will be managed in a land-based unit;

(9) The quantity of each hazardous secondary material to be managed annually; and

(10) The certification (included in EPA Form 8700–12) signed and dated by an authorized representative of the facility.

(b) If a hazardous secondary material generator, tolling contractor, toll manufacturer, reclaimer or intermediate facility has submitted a notification, but then subsequently stops managing hazardous secondary materials in accordance with the exclusion(s), the facility must notify the Regional Administrator within thirty (30) days using EPA Form 8700–12. For purposes of this section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages and/or reclaims hazardous secondary materials under the exclusion(s) and does not expect to manage any amount of hazardous secondary materials for at least one year.

[73 FR 64759, Oct. 30, 2008]

§ 260.43 Legitimate recycling of hazardous secondary materials regulated under § 260.34, § 261.2(a)(2)(ii), and § 261.4(a)(23), (24), or (25).

(a) Persons regulated under §260.34 or claiming to be excluded from hazardous waste regulation under §261.2(a)(2)(ii), §261.4(a)(23), (24), or (25) because they are engaged in reclamation must be able to demonstrate that the recycling is legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining if their recycling is legitimate, persons must address the requirements of §260.43(b) and must consider the requirements of §260.43(c) below.

(b) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process, and the recycling process must produce a valuable product or intermediate.

(1) The hazardous secondary material provides a useful contribution if it

- (i) Contributes valuable ingredients to a product or intermediate; or